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March 9, 1999

BY HAND

Lawrence M. Noble, Esq.  
General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: Matter Under Review 4766

Dear Mr. Noble:

On behalf of Senator Mitch McConnell, I renew my request that you immediately find no reason to believe and dismiss the complaint in Matter Under Review 4766. It has now been over eight months since the complaint was filed. The Commission staff unilaterally chose to name Senator McConnell as a respondent, even though he was not so named in the complaint. Moreover, now that the November 1998 election is over, it is plain that the prospective violations alleged by the Campaign for Tobacco Free Kids never actually occurred. Because no reason to believe finding has yet been made, the Commission is still able to dismiss this complaint. It should do so immediately.

On June 29, 1998, more than four months before the 1998 election, the Campaign for Tobacco Free Kids filed the instant complaint. The essential allegation of the complaint was that, in exchange for Senate Republicans voting against cloture on S. 1415 ("the McCain Bill"), the tobacco companies promised to air advertisements supporting those Republican opponents of cloture during the fall campaign. The complaint argued that these potential advertisements would constitute illegal, in-kind, corporate contributions in violation of the Federal Election Campaign Act of 1971, as amended ("FECA"). The complaint did not allege that any violations had occurred;

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
MAR 11 1999  
11:00 AM

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rather, it is alleged only that violations were possibly going to occur.

Among the obvious problem with this allegation was that there was an insufficient number of Republican Senators running for reelection in 1998 to defeat cloture, and indeed five of the fifteen Republicans running for reelection actually voted for cloture (Senators Bennett, D'Amato, Grassley, Gregg, and McCain).

But in addition to this basic non-sequitur, the complaint rests on a fundamental factual error: the alleged misdeeds predicted by the complaint simply did not occur.

Further, the complaint did not name Senator McConnell as a respondent. Rather, the staff unilaterally and without statutory or regulatory authority added Senator McConnell. As explained in my letter of August 10, 1998, the Commission should rectify this ultra vires action and dismiss Senator McConnell from this matter because, among other reasons, the Speech or Debate Clause of the United States Constitution prohibits the Commission from inquiring into any Senator's participation in legislative activity, and further, the Senator did not coordinate political advertisements with any tobacco company representatives. Now that the election is over, the Commission should immediately dismiss the complaint with respect to Senator McConnell -- and indeed all respondents -- for the additional reason that the potential violations cited by the complaint simply did not occur.

**1. The Alleged Coordinated Advertising Campaign Did Not Occur.**

Evan Tracey is President of Campaign Media Analysis Group, a Virginia corporation that specializes in tracking the nature, quantity, location, and cost of political advertising in the United States. As the attached Declaration of Mr. Tracey demonstrates, his survey of the top 75 media markets in the United States (which comprise 80% of television viewer households) indicates that there were no political advertisements of any kind in November or October that were paid for by the tobacco companies named in the complaint.

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Indeed, no political advertisements by the tobacco company respondents were aired on broadcast or cable television after September 20, 1998. Declaration of Evan Tracey ("Tracey Dec."), ¶ 3. Mr. Tracey has identified only four advertisements (entitled, "Person on the Street," "The Real Hero's [sic]," "Million Against," and "When Will Working People") that were aired between September 1 and 20. Three of the advertisements aired between September 1 and September 8 on just four occasions in three media markets (Birmingham, Alabama; Chicago, Illinois; and Las Vegas, Nevada). The scripts of these advertisements are attached as Exhibits 2-4 of Mr. Tracey's Declaration. See Tracey Dec., ¶ 6 and Exs. 2-4 (attached as Ex. A). The fourth advertisement aired on CNN and CNN Headline News between September 12 and September 20, 1998. Its script is attached as Exhibit 5 to the Tracey Declaration.

None of these advertisements expressly advocated the election or defeat of a Senator who voted against cloture. Indeed, the advertisements did not mention any federal candidate by name. Thus, the advertisements neither supported nor criticized any particular candidate's position on tobacco legislation. Rather, the advertisements merely discussed the tax implications of national tobacco legislation and urged viewers to call their "member of Congress" and tell the member to oppose tobacco taxes. Tracey Dec., Exs. 2-4. Also, the early September advertisements were run in just three media markets across the country, including two states (Illinois and Nevada) that did not even have an incumbent Republican Senator running for reelection in 1998, let alone one that voted against cloture. Id., ¶ 6. Moreover, the tobacco companies spent only a small amount of money to purchase broadcast and cable television time for these three advertisements during September -- just \$1,347, according to Mr. Tracey's estimate. Id., ¶ 3. The remaining advertisement, run between September 12 and September 20, 1998, was broadcast to a nationwide audience and not targeted to a specific state or media market.

While the tobacco company respondents did broadcast advertisements in July and August, those early advertisements do not support the allegation that the tobacco company advertising campaign was intended to aid the campaigns of Senators who voted against cloture.

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Mr. Tracey has estimated that the tobacco company respondents ran approximately \$6,669,337 worth of television advertisements in July and \$1,138,669 worth of such advertisements in August. Tracey Dec., ¶ 3. Two thirds of these amounts, however, were for advertisements that ran in states that had no Republican Senator at all, had no Republican Senator running for reelection in 1998, or had a Republican Senator running for reelection who had voted for cloture. Id., ¶¶ 4-5. Only one third of these amounts was spent on advertisements that ran in states with Republican Senators who both voted against cloture and were running for reelection in 1998. Id. Thus, even if the Campaign for Tobacco Free Kids' allegations were construed to include tobacco company advertisements as remote from the November elections as July and August, the facts of those advertisements completely belie the suggestion that they were intended to be in-kind contributions to Republican Senators who voted against cloture.

In sum, the speculation of the Campaign for Tobacco Free Kids that certain tobacco companies would publish advertisements supporting Senators who voted against cloture is completely refuted because (1) advertisements opposing tobacco legislation that were aired in July and August were aired with no apparent purpose of aiding Republican Senators who voted against cloture; (2) during the first week of September only three spots were aired, again, with no apparent purpose of aiding incumbent Republican Senators who voted against cloture; (3) between September 12 and September 20, 1998, the sole advertisement aired was directed to a nationwide audience and not targeted to a specific state or media market; (4) no such advertisements were broadcast from September 21, 1998, through November 3, 1998; and (5) none of the advertisements that were broadcast so much as mentioned a federal candidate by name, let alone expressly advocated his or her election or defeat.

**2. There Can Be No Finding Of Any "In-Kind" Contribution.**

The complaint in this case alleged potential violations of Section 441b of FECA, which makes it unlawful for a corporation to make "contributions" as defined in Section 441b(b)(2). The facts of the 1998 election preclude any finding of an in-kind "contribution" in this case.

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First, there can be no "contribution" without an actual conveyance of something of value. Contributions are defined to include "any direct or indirect payment, distribution, loan advance, deposit, or gift of money, or any services, or anything of value . . . to any candidate . . . in connection with any election." 2 U.S.C. § 441b(b)(2). Because the tobacco company respondents never ran the advertisements that the complaint speculated they would, the tobacco companies did not give "anything of value" to any candidate. Further, even assuming (contrary to fact) that the tobacco company respondents made an unwritten promise to run such advertisements in exchange for votes against cloture, the definition of contribution was specifically revised by Congress in 1980 to remove "promises," whether enforceable or not, from the definition.

Second, a political advertisement cannot be an in-kind "contribution" under FECA if it does not expressly advocate the election or defeat of a clearly identified federal candidate. In FEC v. Massachusetts Citizens for Life, 479 U.S. 238, 248-49 (1986), the Supreme Court definitively construed the term "expenditure" in Sections 441b and 441b(b) as meaning only a disbursement of corporate "funds used for communications that expressly advocate the election or defeat of a clearly identified candidate." The Act itself excludes from the definition of contribution any corporate disbursements that do not constitute expenditures: Section 431 provides that the term "contribution" does not include "any payment made or obligation incurred by a corporation . . . which, under section 441b(b) of this title, would not constitute an expenditure by such corporation." Accordingly, only advertisements containing express advocacy can constitute in-kind "contributions." As noted above, however, the few advertisements that were published by the tobacco companies in September did not expressly advocate the election or defeat of a clearly identified federal candidate. Indeed, none of the September advertisements or any other advertisements run after the June 17 cloture vote so much as identified a candidate, much less advocated his election or defeat. Tracey Dec., ¶ 7.

\* \* \*

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Because it is now clear that the prospective, potential violations hypothesized in the complaint never occurred, we respectfully request that the Commission immediately find no reason to believe a violation occurred, and dismiss the complaint forthwith.

Respectfully submitted,

  
Bobby R. Burchfield

Attachment

cc: The Honorable Scott E. Thomas, Chairman  
The Honorable Darryl R. Wold, Vice Chairman  
The Honorable Lee Ann Elliott  
The Honorable David M. Mason  
The Honorable Danny L. McDonald  
The Honorable Karl Sandstrom

BEFORE THE FEDERAL ELECTION COMMISSION

In re: Matter Under Review 4766

DECLARATION OF EVAN TRACEY

I, Evan Tracey, hereby declare as follows:

1. My name is Evan Tracey. I am President of the Campaign Media Analysis Group, a Virginia corporation specializing in tracking the nature, quantity, location, and cost of political advertising in the top 75 media markets in the United States (which comprise 80% of television viewer households).

2. I and my staff have undertaken a comprehensive survey of political advertisements discussing national tobacco legislation that were paid for by Philip Morris, Inc., RJ Reynolds Tobacco Co., Brown & Williamson Tobacco Corp., Lorillard Tobacco Co., or United States Tobacco Co. ("the tobacco company respondents") following the Senate's June 17, 1998, vote against cloture on Senate Bill No. 1415, more commonly known as the "McCain Bill."

3. My survey concluded that the tobacco company respondents spent an estimated \$6,669,337 in July, \$1,138,669 in August, and \$203,127 during the first three weeks of September to purchase air time on cable and spot market television across

E. Tracey

the United States for political advertisements opposing national tobacco legislation. The tobacco company respondents ran no political advertisements in the top 75 media markets from September 21, 1998, to November 3, 1998.

4. As the table attached as Exhibit 1 to this Declaration demonstrates, of the estimated \$6,669,337 in television broadcast time purchased by the tobacco company respondents in the top 75 media markets in July 1998, about two thirds (\$4,208,073) was spent in states in which no Republican incumbent was running for reelection (\$3,530,863) or in which the Republican incumbent running for reelection actually had voted for cloture (\$677,210). Only about one third (\$2,461,264) was spent in states with a Republican incumbent Senator running for reelection who had voted against cloture.

5. Similarly, of the estimated \$1,138,669 in television broadcast time purchased by the tobacco company respondents in the top 75 media markets in August 1998, about two thirds (\$758,554) was spent in states in which no Republican incumbent was running for reelection (\$614,532) or in which the Republican incumbent running for reelection actually had voted for cloture (\$144,022). Only about one third (\$380,115) was spent in states with a Republican incumbent Senator running for reelection who had voted against cloture.

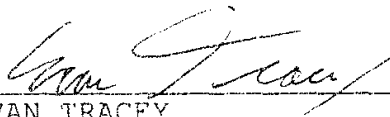


6. In the first three weeks of September 1998, the tobacco company respondents ran four different advertisements discussing national tobacco legislation on cable and broadcast television stations in the top 75 media markets. Three of the advertisements did not air after September 8, 1998. These advertisements were aired on just four separate occasions in the following markets: Birmingham, Alabama; Chicago, Illinois; and Las Vegas, Nevada. The scripts of those three advertisements are attached as Exhibits 2, 3, and 4 to this Declaration. I estimate that the tobacco company respondents spent only \$1,347 in broadcasting these three advertisements. An additional advertisement was broadcast on CNN and CNN Headline News to a nation-wide audience between September 12 and September 20, 1998. The script of this advertisement is attached as Exhibit 5 to this Declaration. I estimate that the tobacco company respondents spent \$201,780 in broadcasting this advertisement. None of the advertisements broadcast in September expressly advocated the election or defeat of a clearly identified federal candidate.

7. My review of all of the advertisements run by the tobacco company respondents in the top 75 media markets following the June 17, 1998, vote on cloture, indicates that none of the advertisements expressly advocated the election or defeat of a clearly identified candidate. Indeed, not one of

the advertisements so much as mentioned a federal candidate by name, much less advocated his or her election or defeat. The scripts of all of these advertisements are attached as Exhibit 6 to this Declaration.

I declare under penalty of perjury that the foregoing is true and correct.

  
\_\_\_\_\_  
EVAN TRACEY

Executed on: March 8, 1999

Television Advertisements by the Tobacco Company Respondents

7/1/98 to 7/31/98

MARKET	SPOT COUNT:	GRP:	COST:	REPUB. SEN. INCUMBENT FACING RE-ELECTION	VOTE ON CLOTURE
<b>ALBANY</b>	349	1800.3	\$157,392	Y	Y
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Person On the Street					
TOB/TC The Real Hero's					
<b>ATLANTA</b>	460	2244.8	\$428,739	Y	N
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Person On the Street					
TOB/TC The Real Hero's					
TOB/TC The Tax Tree Fell?					
<b>BIRMINGHAM</b>	394	2013.1	\$191,811	Y	N
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Person On the Street					
TOB/TC The Real Hero's					
<b>BOSTON</b>	21	14.5	\$6,788	N	
TOB/TC The Tax Tree Fell?					
<b>BUFFALO</b>	331	1944	\$216,225	Y	Y
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Person On the Street					
TOB/TC The Real Hero's					
<b>CHARLOTTE</b>	249	1124.4	\$119,131	Y	N
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Person On the Street					
<b>CHICAGO</b>	709	2126.7	\$982,519	N	
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Person On the Street					
TOB/TC Fight Back At It					
TOB/TC The Real Hero's					
TOB/TC The Tax Tree Fell?					
<b>CINCINNATI</b>	394	1991.6	\$210,941	N	
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Person On the Street					
TOB/TC The Real Hero's					
TOB/TC The Tax Tree Fell?					

**Television Advertisements by the Tobacco Company Respondents  
7/1/98 to 7/31/98**

City	Number of Ads	Estimated Reach (millions)	Estimated Cost (\$)	Response	Comments
<b>COLOMBUS, OH</b>	352	1871.9	\$258,974	N	
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Person on the Street					
TOB/TC The Real Hero's					
TOB/TC The Tax Tree Fall?					
<b>DAYTON</b>	26	186.1	\$13,160	N	
TOB/TC The Tax Tree Fall?					
<b>DENVER</b>	303	1481.1	\$425,448	Y	N
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Person on the Street					
<b>DES MOINES</b>	15	119.2	\$4,959	Y	Y
TOB/TC Election Time At IT					
TOB/TC The Tax Tree Fall?					
<b>DETROIT</b>	13	109.7	\$23,445	N	
TOB/TC The Tax Tree Fall?					
<b>GRAND RAPIDS</b>	436	1991.3	\$225,730	N	
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Against Taxes					
TOB/TC Person on the Street					
TOB/TC The Real Hero's					
TOB/TC The Tax Tree Fall?					
<b>HARTFORD</b>	7	0	\$664	N	
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
<b>LAS VEGAS</b>	272	1121.5	\$195,316	N	
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Person on the Street					
<b>LEXINGTON</b>	1	1	\$42	N	
TOB/TC Million Against					
<b>MINNEAPOLIS</b>	268	1170.1	\$292,033	N	
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Person on the Street					
<b>NASHVILLE</b>	24	142	\$17,420	N	
TOB/TC It's Christmas					
TOB/TC The Tax Tree Fall?					

**Television Advertisements by the Tobacco Company Respondents  
7/1/98 to 7/31/98**

<b><u>NEW ORLEANS</u></b>	284	1729.4	\$126,080	N	
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Person On the Street					
TOB/TC The Real Hero's					
<b><u>PHILADELPHIA</u></b>	594	2001.4	\$324,820	Y	A
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Person On the Street					
TOB/TC The Tax Tree Fall?					
<b><u>PITTSBURGH</u></b>	248	1394.5	\$194,689	Y	A
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Person On the Street					
<b><u>ROCHESTER, NY</u></b>	407	2148.4	\$165,408	Y	Y
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Person On the Street					
TOB/TC The Real Hero's					
<b><u>SACRAMENTO</u></b>	464	1989.2	\$375,449	N	
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Person On the Street					
TOB/TC The Real Hero's					
<b><u>SALT LAKE CITY</u></b>	35	108.5	\$14,628	Y	Y
TOB/TC Right Back At It					
TOB/TC The Tax Tree Fall?					
<b><u>SEATTLE</u></b>	674	2534.8	\$660,585	N	
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Person On the Street					
TOB/TC Right Back At It					
TOB/TC The Real Hero's					
TOB/TC The Tax Tree Fall?					
<b><u>SPOKANE</u></b>	50	189.5	\$10,428	N	
TOB/TC The Tax Tree Fall?					
<b><u>ST. LOUIS</u></b>	329	2002.1	\$276,576	Y	N
TOB/TC At Election Time					
TOB/TC At Election Time (man)					
TOB/TC Person On the Street					
TOB/TC The Tax Tree Fall?					

Television Advertisements by the Tobacco Company Respondents

7/1/98 to 7/31/98

SYRACUSE

368 2036.6 \$118,598

Y

Y

TOB/TC At Election Time

TOB/TC At Election Time (man)

TOB/TC Person on the Street

TOLEDO

353 2276.3 \$133,343

N

TOB/TC At Election Time

TOB/TC At Election Time (man)

TOB/TC Person on the Street

TOB/TC The Real People

Subtotal for Markets w/ incumbent Rep. Senator running for re-election who voted against cloture:

2577 \$2,461,264

Subtotal for Markets w/ no incumbent Rep. Senator running for re-election or w/ incumbent Rep. Senator running for re-election who voted for cloture:

5855 \$4,208,073

TOTAL: 8432 \$6,669,337

**Television Advertisements by the Tobacco Company Respondents  
8/1/98 to 8/31/98**

<u>MARKET</u>	<u>SPOT COUNT:</u>	<u>GRP:</u>	<u>COST:</u>	<u>REPUB. SEN. INCUMBENT FACING RE-ELECTION</u>	<u>VOTE ON CLOTURE</u>
<u>ALBANY</u> TOB/TC The Real Hero's	75	371.6	\$32,627	Y	Y
<u>ATLANTA</u> TOB/TC The Real Hero's	103	527.9	\$102,640	Y	N
<u>BIRMINGHAM</u> TOB/TC At Election Time TOB/TC At Election Time (man) TOB/TC The Real Hero's	105	485.4	\$47,513	Y	N
<u>BUFFALO</u> TOB/TC The Real Hero's	66	399.2	\$48,025	Y	Y
<u>CHICAGO</u> TOB/TC The Real Hero's TOB/TC Million Against	104	441.6	\$218,286	N	
<u>CINCINNATI</u> TOB/TC At Election Time TOB/TC At Election Time (man) TOB/TC The Real Hero's	84	436.8	\$46,034	N	
<u>COLUMBUS, OH</u> TOB/TC The Real Hero's	79	409.9	\$57,368	N	
<u>GRAND RAPIDS</u> TOB/TC The Real Hero's	93	423.1	\$48,702	N	
<u>HARTFORD</u> TOB/TC At Election Time TOB/TC The Real Hero's	2	0	\$139	N	
<u>NEW ORLEANS</u> TOB/TC The Real Hero's	67	366.7	\$26,202	N	
<u>PHILADELPHIA</u> TOB/TC The Real Hero's	84	385.5	\$167,155	Y	A
<u>ROCHESTER, NY</u> TOB/TC At Election Time TOB/TC The Real Hero's	78	441.3	\$33,974	Y	Y
<u>SACRAMENTO</u> TOB/TC At Election Time (man) TOB/TC The Real Hero's TOB/TC The Real Hero's	79	372	\$68,159	N	
<u>SEATTLE</u> TOB/TC The Real Hero's	116	461.4	\$119,813	N	







## Ad Detector

BRAND:

TOBACCO RESOLUTION+

TITLE:

TOB/TC Person On the Street

COMMERCIAL: TOB/TC Person On the Street

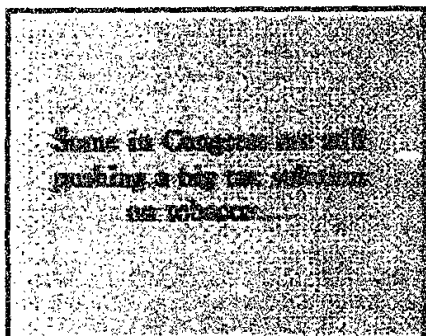
1 of 1

LENGTH: 30

FRAMES: 7

CMAG  
REPORTS

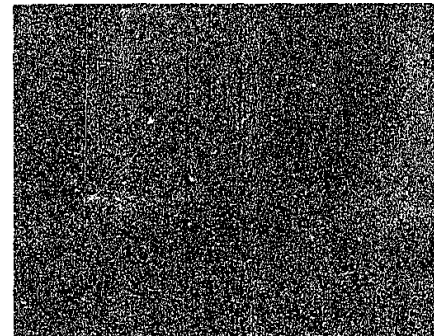
A005EYNC.ESB



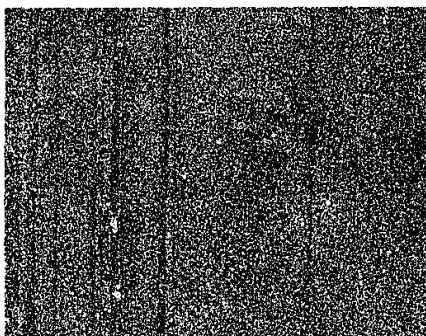
[Announcer]: Some in Congress are still pushing a big tax solution on tobacco. What do Americans think? [Man]: "Working people get



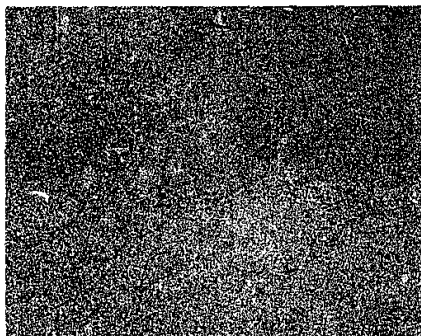
stuck paying all the taxes." [Woman]: "I think that Washington's answer to everything is new taxes."



[2nd Man]: They're just basically milking that cash cow one more time." [2nd Woman]: "There's got to be some other way."



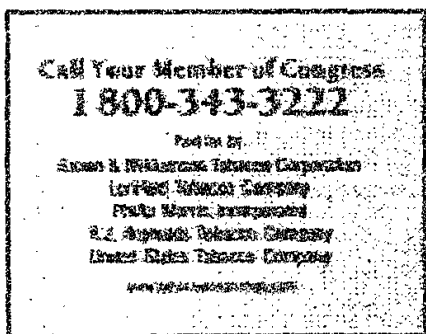
[3rd Man]: "Big government and taxes are not the way to go." [3rd Woman]: "The government is too much involved in



our lives as it is." [4th Man]: "It's another way of the government getting into their pockets." [5th Man]: "When are



they going to get the message? I don't know." [Announcer]: Contact your member of Congress. Tell them to



oppose new tobacco taxes.

Campaign Media Analysis Group

703-683-7110

www.cmagtracks.com

02/17/99

Page 1



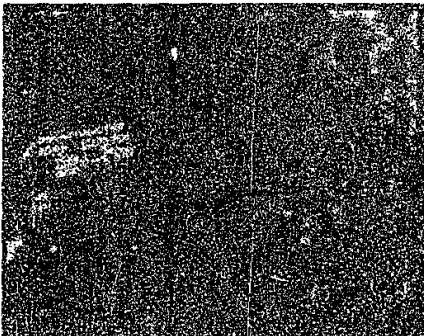
## Ad Detector

BRAND: TOBACCO RESOLUTION+  
TITLE: TOB/TC The Real Hero's  
COMMERCIAL: TOB/TC The Real Hero's  
LENGTH: 20  
FRAMES: 8

1 of 2

CMAG  
REPORTS

A005H62K.ESB



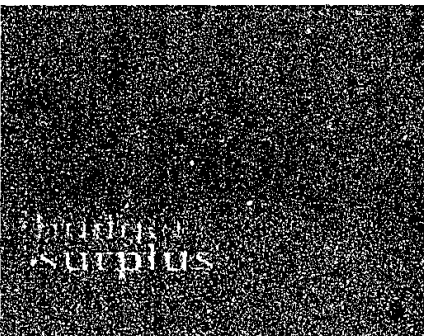
[Announcer]: These are the real  
heroes of the American economy:  
men and women across this country



who work hard for their families.  
Their sacrifices brought our economy  
back



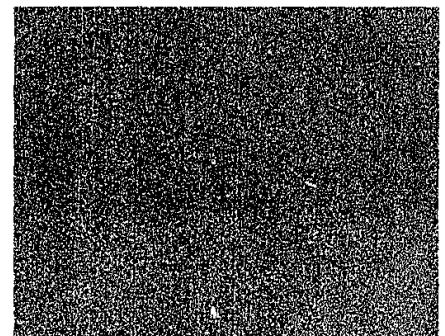
and their tax dollars have given us the  
first budget surplus in almost thirty  
years.



But even with the \$1.6 trillion surplus  
some



in Washington still want more than  
\$500 billion in new tobacco taxes.

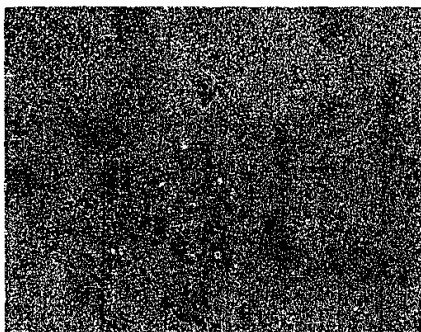


Isn't it time to give hard-working  
Americans a break? Contact

Call Your Member of Congress  
**1.800.343.3272**

For more information, contact:  
The American Tobacco Company  
P.O. Box 1000  
Raleigh, NC 27602  
1-800-343-3272

your member of Congress. Tell them  
to oppose new tobacco taxes.





Ad Detector

BROD

TITLE

COMMERCIAL: TOB/TC million against 15

LENGTH: 15

FRAMES: 4

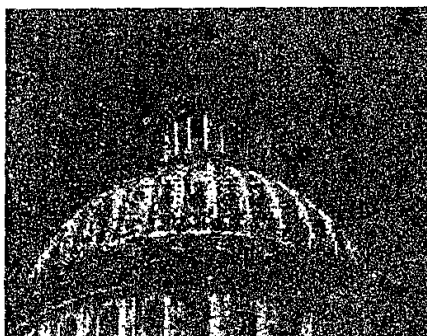
TOBACCO RESOLUTION+

TOB/TC million against 15

1 of 1

CMAG  
REPORTS

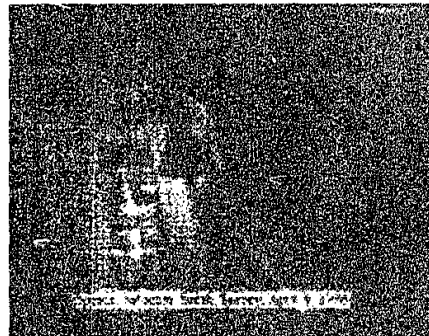
A005AAL2 ESB



Washington's tobacco legislation.  
What's in it for you? Half a trillion



dollars in new taxes, new spending,  
cigarettes



at 5 dollars a pack, creating a black  
market. No wonder it's opposed



by millions of hard working  
Americans.



## Ad Detector

BROD:

TITLE

COMMERCIAL: TOB/TC When Will Working People

LENGTH: 30

FRAMES: 7

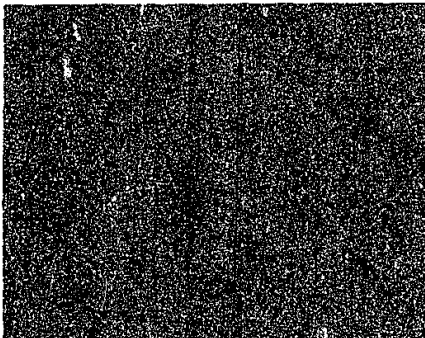
TOBACCO RESOLUTION+

TOB/TC When Will Working People

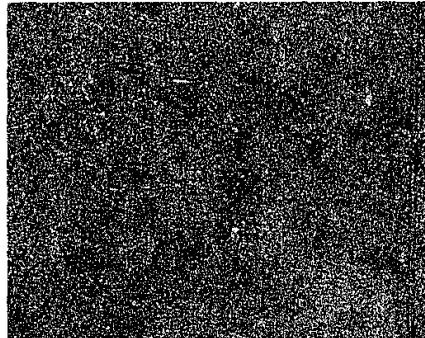
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CMAG  
REPORTS

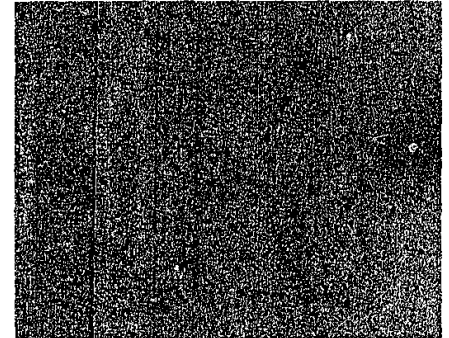
A005L5SJ.ESB



[Announcer]: When will working people in this country get a break? They paid the taxes that brought our economy back giving us a projected



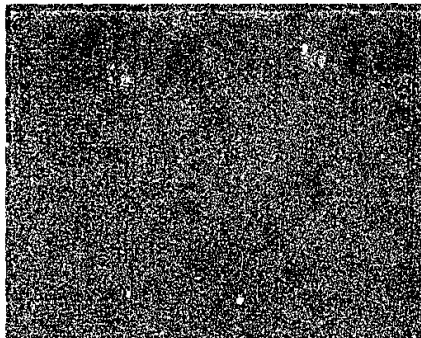
\$1.6 trillion budget surplus. But some still think big government and tax



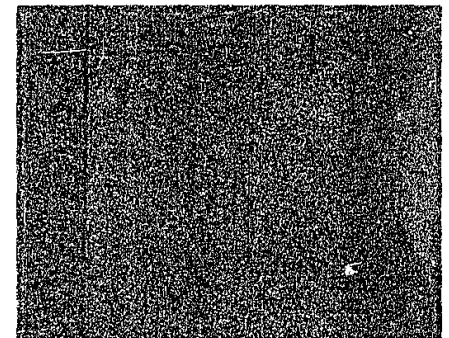
and spend policies are the way to go. Some members of Congress want to raise billions of dollars



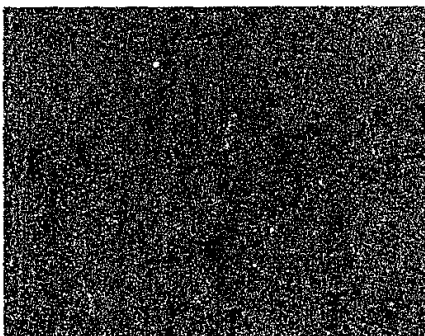
from higher tobacco taxes on hard working Americans. They want to expand the power



of government agencies, hire new bureaucrats, and spend billions of tax dollars



new programs. Isn't it time to put working people first for a change?



Contact your member of Congress and tell them where you stand.

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Page 1



# Ad Detector

BRA

TITLE

COMMERCIAL:

LENGTH:

FRAMES:

TOBACCO RESOLUTION+

TOB/TC Person On the Street

TOB/TC Person On the Street

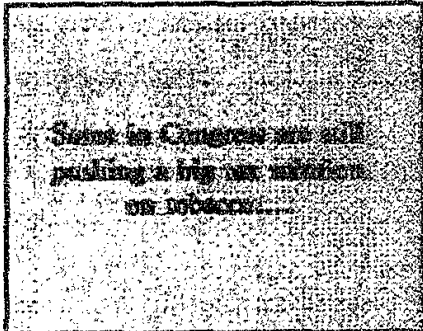
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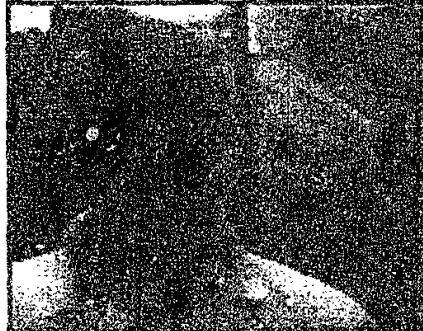
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REPORTS

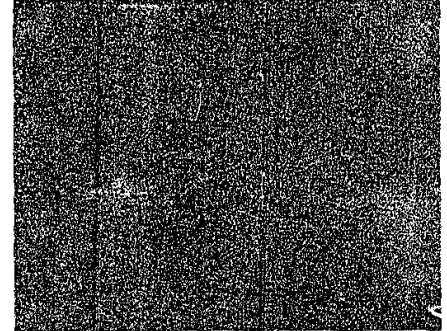
A005EYNC.ESB



[Announcer]: Some in Congress are still pushing a big tax solution on tobacco. What do Americans think? [Man]: "Working people get



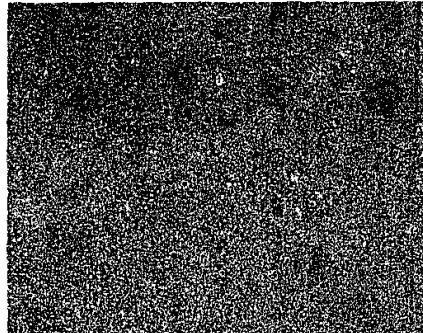
stuck paying all the taxes." [Woman]: "I think that Washington's answer to everything is new taxes."



[2nd Man]: They're just basically milking that cash cow one more time." [2nd Woman]: "There's got to be some other way."



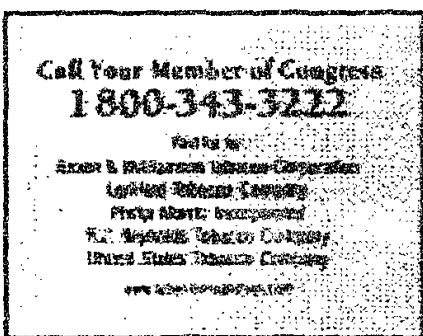
[3rd Man]: "Big government and taxes are not the way to go." [3rd Woman]: "The government is too much involved in



our lives as it is." [4th Man]: "It's another way of the government getting into their pockets." [5th Man]: "When are



they going to get the message? I don't know." [Announcer]: Contact your member of Congress. Tell them to



oppose new tobacco taxes.





## Ad Detector

BRAND:

TOBACCO RESOLUTION+

TITLE:

TOB/TC At Election Time

COMMERCIAL:

TOB/TC At Election Time

LENGTH:

30

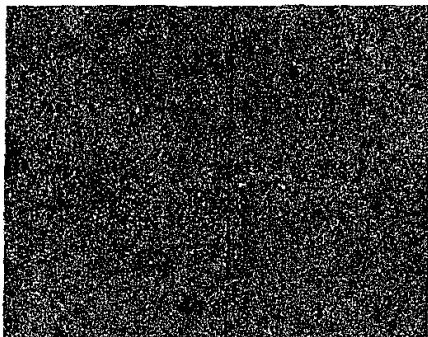
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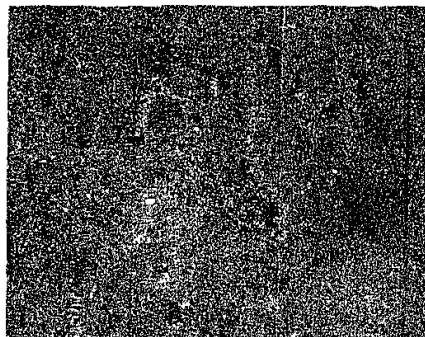
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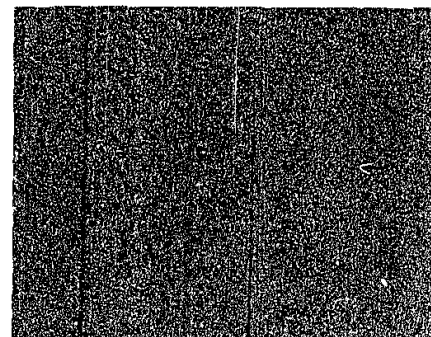
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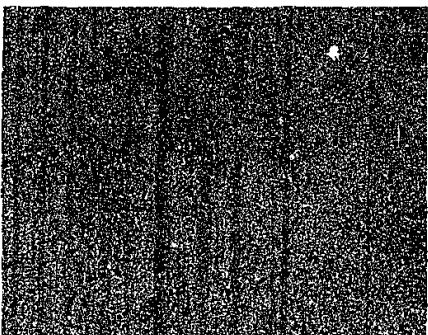
[Woman] "At election time, politicians are always telling us that they are against taxes and



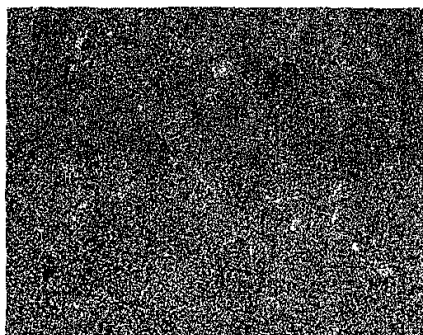
for working people. Now they have a chance to prove it before the elections.



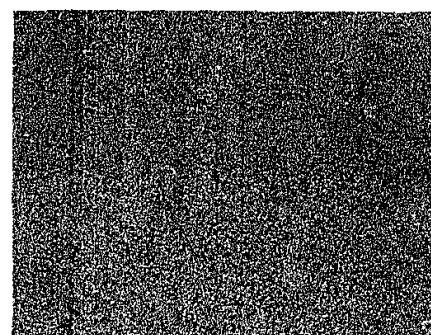
The Tobacco Tax some in Congress are talking about doesn't make any sense.



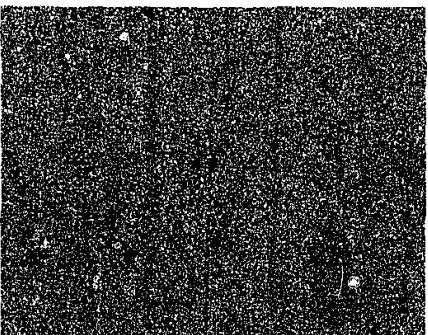
How is more than half a trillion dollar tax increase on working people



going to stop kids from smoking? It's more taxes and more big government.



I'm going to remember this fall what the politicians do this summer."



[Announcer] Contact your member of Congress and tell them to oppose new tobacco taxes.

**Call Your Member of Congress**  
**1 800-343-3222**

Find out by:

- Phone 2. OR PAPER MAIL TO: CONGRESS
- Local Tobacco Company
- Pay To: Members Congress
- R.J. REYNOLDS TOBACCO COMPANY
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## Ad Detector

BROD:

TOBACCO RESOLUTION+

TIT

TOB/TC At Election Time (man)

COMMERCIAL: TOB/TC At Election Time (man)

1 of 1

LENGTH: 30

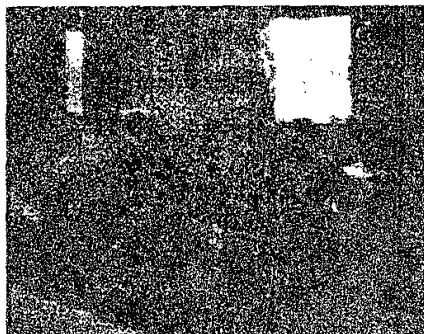
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A005FZ2A.ESB



At election time, politicians are always telling us they are against taxes and for the



working people. Now they have a chance to prove it before the



election. This tobacco tax some in Congress are talking about



doesn't make any sense. How does more than half a trillion dollar tax increase on



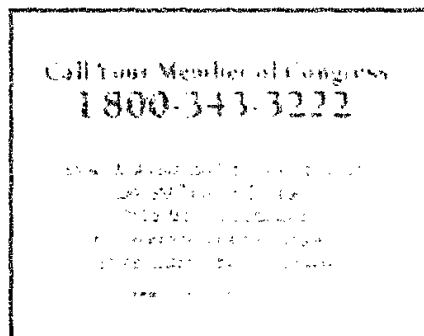
the working people stop kids from smoking. It's just more taxes from



big government. I'm going to remember this fall what the politicians do this summer."



[Announcer] Contact your member of Congress and tell them to oppose new tobacco taxes.



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## Ad Detector

BRAND:

TITLE:

COMMERCIAL: TOB/TC Its Christmas

LENGTH: 30

FRAMES: 7

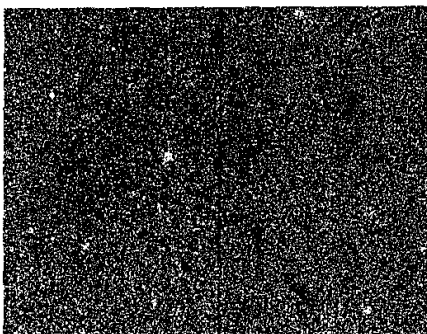
TOBACCO RESOLUTION+

TOB/TC Its Christmas

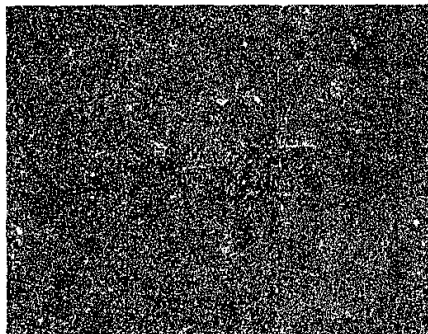
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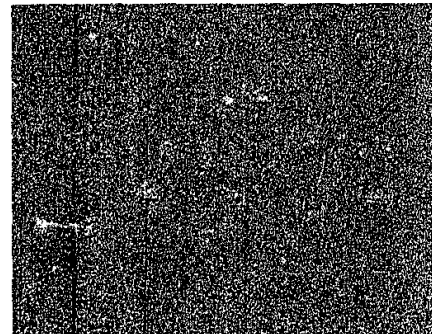
A005D00CK.ESB



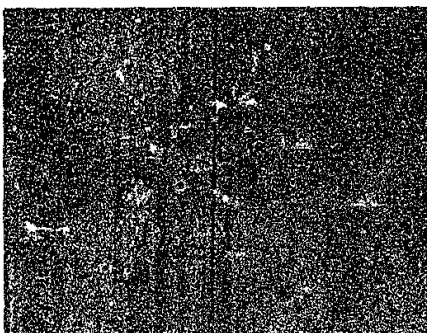
It's Christmas in Washington and they are piling big presents under the tax tree. New spending on pet



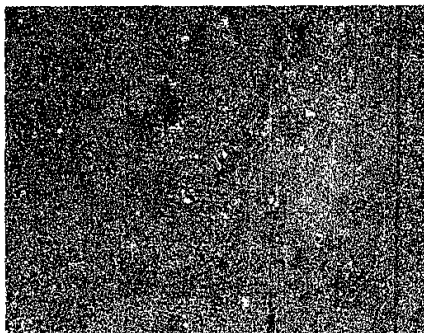
projects. A black market in cigarettes. Tax cuts



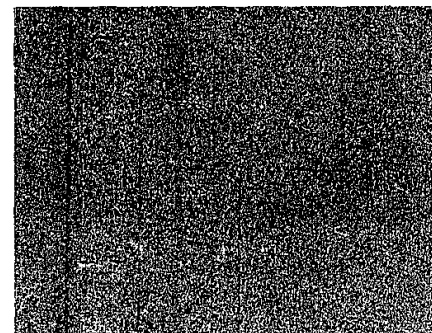
for the wealthy few. Lots of money for new government bureaucracy. Yes



it is the season of giving in Washington. But remember it is your



money they are giving away. \$800 billion in new taxes. Merry Christmas



from Washington and it is only summer. Contact your member of Congress now

**Call Your Member of Congress**  
**1800-343-3222**

For more information, contact:

David J. Wilentz, Tobacco Corporate  
Lobbying Counsel  
Philip Morris Inc.  
P.O. Box 1000  
Rt. 1, Princeton, NJ 08540  
www.pmc.com

and tell them you oppose the McCain tobacco tax.

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## Ad Detector

BRAND:  
TITLE:

TOBACCO RESOLUTION+

TOB/TC Right back at it

COMMERCIAL: TOB/TC Right back at it

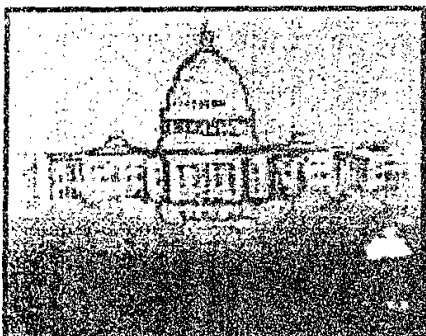
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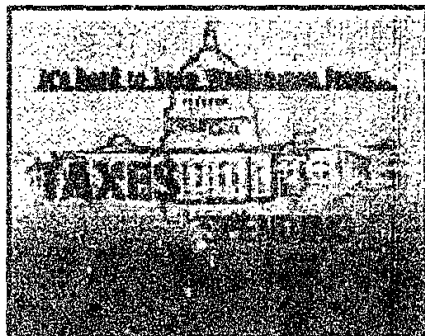
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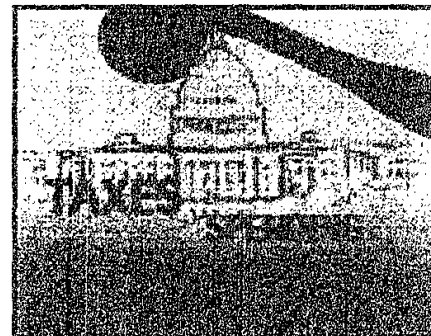
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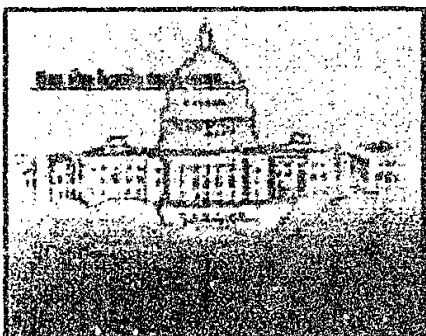
[Announcer]: It's hard to keep Washington from taxing and spending. Recently, hard working Americans



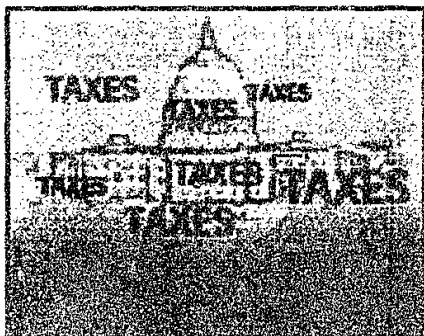
sent a message to Congress. They said no to \$800 billion in



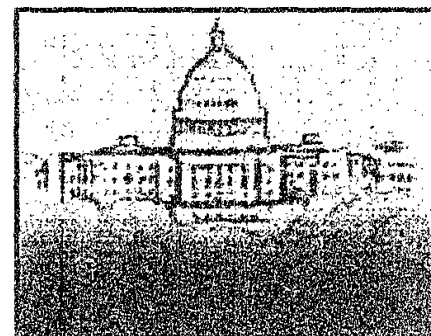
new tobacco taxes and huge new federal spending, but the battle isn't over. Some in Washington



are right back at it. They're still proposing huge new taxes. When



will they get the message? Americans oppose youth tobacco use but know that



massive new taxes and spending aren't the answer. Contact your member of Congress, tell them to

Call Your Member of Congress  
**1 800-343-3222**

Produced by:  
Brown & Warkentin Tobacco Consultants  
United Tobacco Company  
P.O. Box 10000  
Rt. 1, P.O. Box 10000  
United States Tobacco Company

stand up for working people and  
against a new tobacco tax bill.

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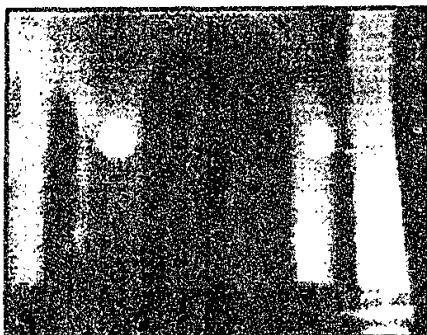
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TITLE: TOB/TC GOP against taxes  
COMMERCIAL: TOB/TC GOP against taxes  
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1 of 1

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REPORTS

A0058850.ESB



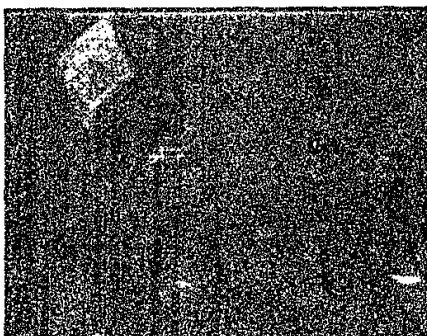
[Announcer:] Two years ago Washington said it would cut youth tobacco use in half without a penny in new taxes. Now Washington is voting to



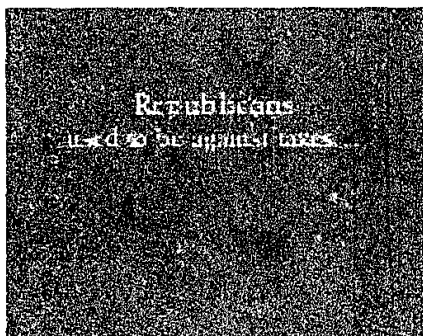
raise half a trillion dollars in new tobacco taxes paid mostly by American's earning less than



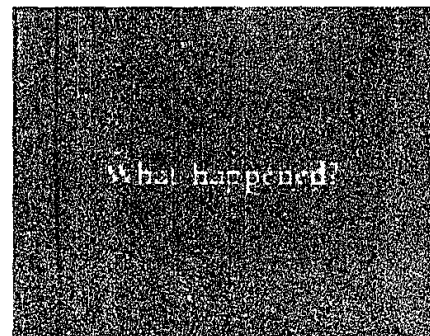
\$30,000 a year. Washington says it's about kids but a leading tobacco opponent admits that



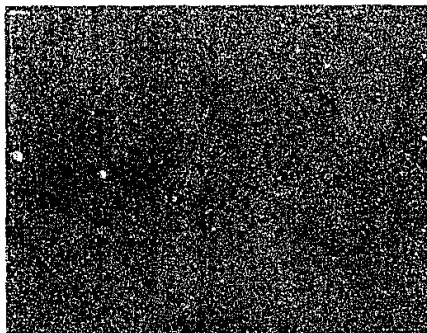
"the thing that is driving us now is the hunger for money." Republicans



used to be against taxes. Democrats for working people. What happened?



Contact you Senators now and tell them you oppose the McCain Tobacco Tax.





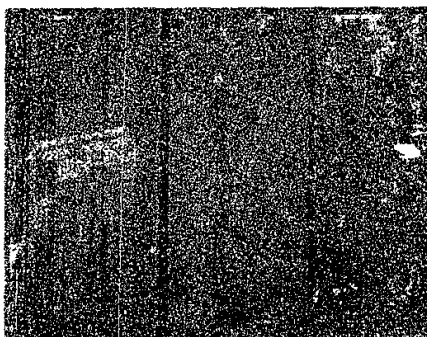
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BRAND: TOBACCO RESOLUTION+  
 TITLE: TOB/TC The Real Hero's  
 COMMERCIAL: TOB/TC The Real Hero's  
 LENGTH: 20  
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1 of 2

CMAG  
REPORTS

A005H62K.ESB



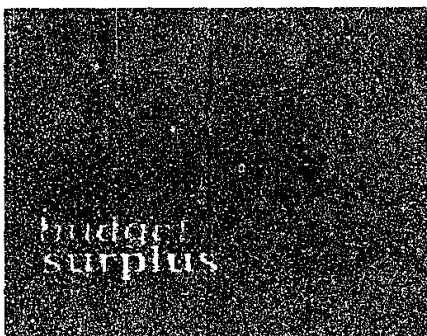
[Announcer]: These are the real  
 heroes of the American economy:  
 men and women across this country



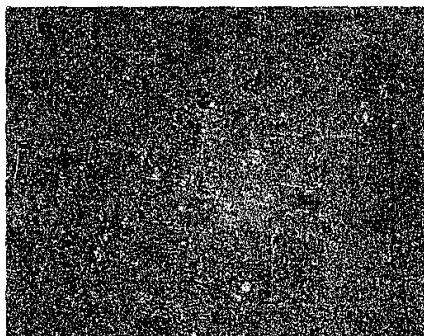
who work hard for their families.  
 Their sacrifices brought our economy  
 back



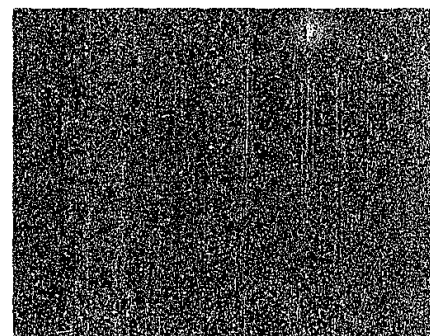
and their tax dollars have given us the  
 first budget surplus in almost thirty  
 years.



But even with the \$1.6 trillion surplus  
 some



in Washington still want more than  
 \$500 billion in new tobacco taxes.

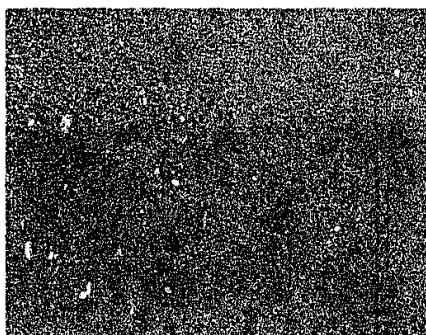


Isn't it time to give hard-working  
 Americans a break? Contact

Call Your Member of Congress  
**1-800-343-3222**

For more information,  
 contact your local Congressman,  
 or write to:  
 U.S. House of Representatives  
 100 Capitol Building  
 Washington, D.C. 20540

your member of Congress. Tell them  
 to oppose new tobacco taxes.





## Ad Detector

BRAND:

TITLE:

COMMERCIAL: TOB/TC The Tax Tree Fell?

LENGTH: 30

FRAMES: 8

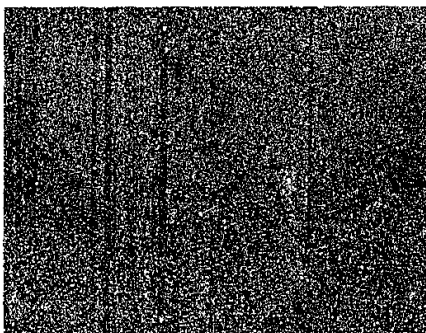
TOBACCO RESOLUTION+

TOB/TC The Tax Tree Fell?

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CMAG  
REPORTS

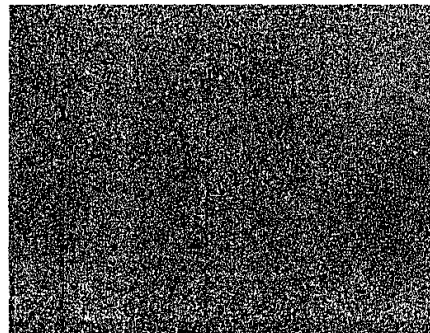
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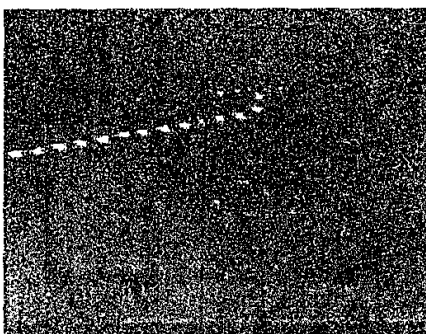
[Announcer]: The Christmas Tax Tree fell over in Washington because hard working



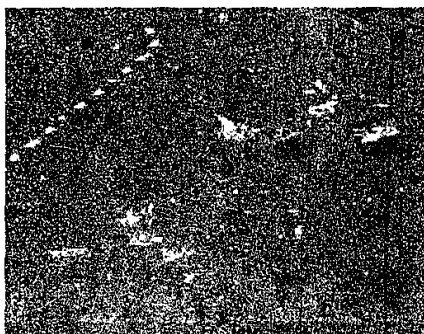
Americans sent a message to Congress. They said no to \$800 billion



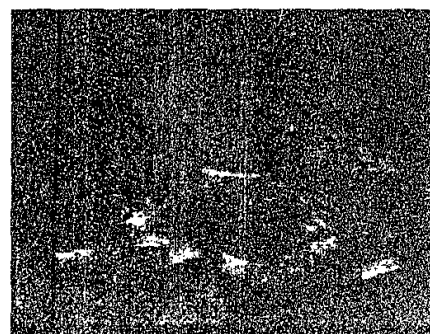
in new tobacco taxes, but now, some people are already trying to



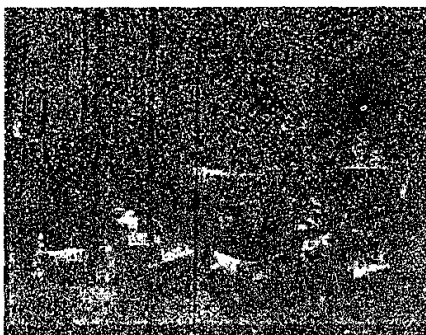
put the tree back up, loading it with new taxes, and spending,



and massive new federal bureaucracy. It's still the season of giving in Washington,



and it's still your hard earned money they're trying to give away. Contact your member of Congress,



tell them to stand up for working people and against a new tobacco tax bill.

Call Your Member of Congress  
**1800-343-3222**

Participating in:

- Steven S. Whitman Tobacco Corporation
- Lorillard Tobacco Company
- Philip Morris Incorporated
- R.J. REYNOLDS TOBACCO COMPANY
- United States Tobacco Company

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## Ad Detector

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TITLE:

TOBACCO RESOLUTION+

TOB/TC million against 15

COMMERCIAL: TOB/TC million against 15

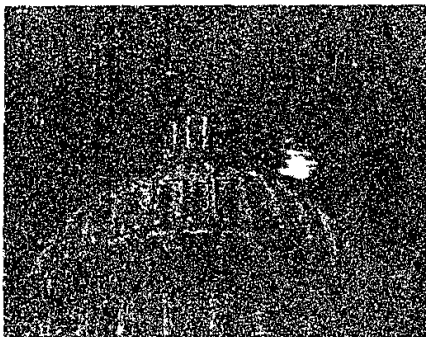
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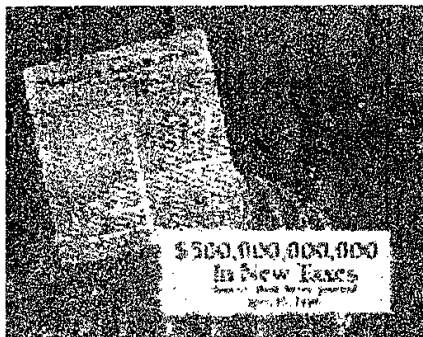
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REPORTS

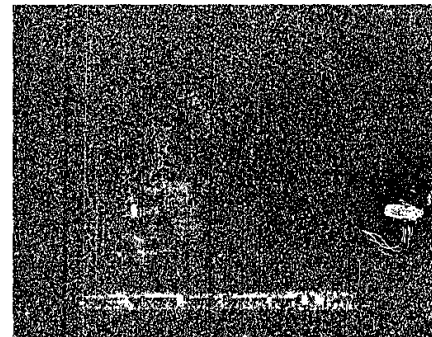
A005AAL2.ESB



Washington's tobacco legislation.  
What's in it for you? Half a trillion



dollars in new taxes, new spending,  
cigarettes



at 5 dollars a pack, creating a black  
market. No wonder it's opposed



by millions of hard working  
Americans.





## Ad Detector

BRAND:

TOBACCO RESOLUTION+

TITLE:

TOB/TC When Will Working People

COMMERCIAL:

TOB/TC When Will Working People

1 of 1

LENGTH:

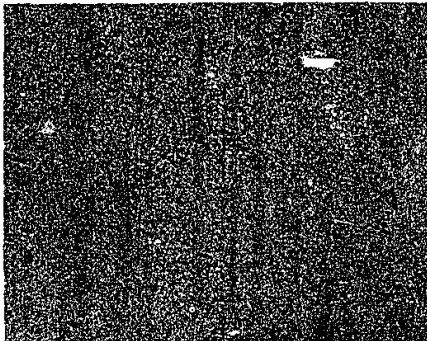
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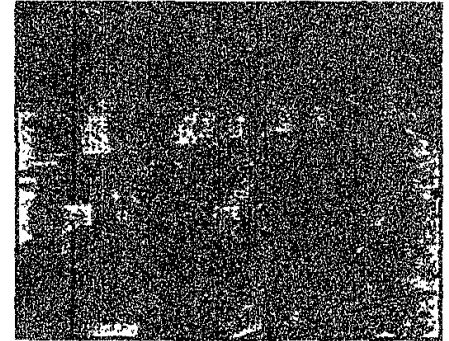
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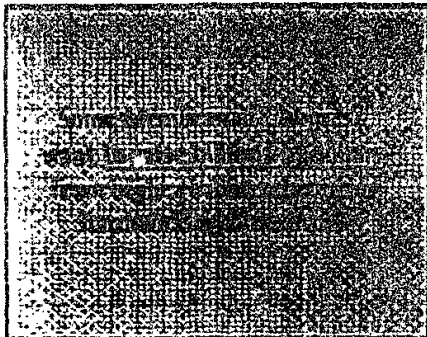
[Announcer]: When will working people in this country get a break? They paid the taxes that brought our economy back giving us a projected



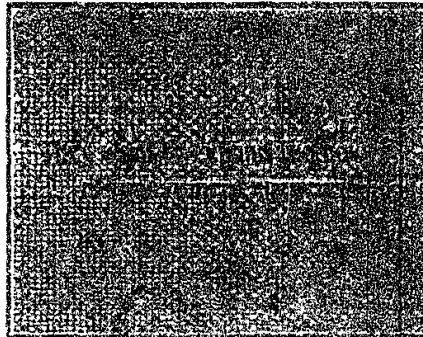
\$1.6 trillion budget surplus. But some still think big government and tax



and spend policies are the way to go. Some members of Congress want to raise billions of dollars



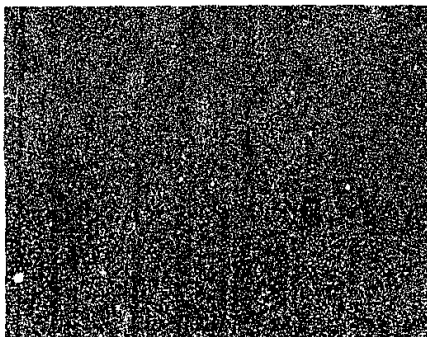
from higher tobacco taxes on hard working Americans. They want to expand the power



of government agencies, hire new bureaucrats, and spend billions of tax dollars



new programs. Isn't it time to put working people first for a change?



Contact your member of Congress and tell them where you stand.

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